1945. **File No.** O. Bom. Hay Trade Licensing Order 45

Legal Dept
A **BRANCH**

Subject:— Opinions under the Bombay Hay Trade Licensing Order 1944

File No. O. Bom. Hay Trade Licensing Order 1/45

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C O N T E N T S.

Legal Department File No. O.Sem. Hay Trade Licensing Order/45

Sr.No.	R.I./C.No.	Subject	Pages
		Opinions under the Bombay Hay Trade Licensing order, 1944.	
1.	9627	Clauses 2,3,4 & 5A	
	[illegible]	Whether the Hay Commission	
	22-12-1945	Agents can legally sell Hay.	1-2

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The first question appears to be whether a Hay Commission Agent can legally sell under the Bombay Hay Trade Licensing Order, 1944, hay in quantities less than a wagon at a time. Clause 2(b) of the Bombay Hay Trade Licensing Order, 1944, defines a Hay Commission Agent to mean a person carrying on ~~s~~ in the City of Bombay or the B.S.D. the business on commission of selling hay not belonging to himself. No limit has been imposed by the Order as regards the quantity below which he should not sell hay . The point however appears to have been raised in view of the definition of 'Hay Retailer' in sub-clause (dd) of clause 2 which provides that a Hay retailer is a person who does not hold stocks of hay, whether on his own account or in partnership with any other person in the district of Thana or Surat and who ecarries on the business of selling hay in the City of Bombay or the B.S.D. to consumers in quantities of less than a wagon load at a time. The classes of persons contemplated by these two definitions are quite different and there is nothing to suggest that because Hay Retailers cannot a sell grass in quantities of or exceeding a wagon load at a time, ~~by~~ Hay Commission Agents cannot sell hay by bales or in quantities less than a wagon eaload.

2. Moreover while a hay retailer is the owner of the stocks of hay which he sells, a hay commission agent is not. His business is to sell on commission hay belonging to hay dealer (vide the definition of "hay dealer" in clause 2(d) of the Order and condition 3 of Form E). Consequently if a hay commission agent desires to sell hay in quantities less than a wagon load there is nothing in the order which prohibits him from doing so.

3. The next question is whether a direction can be issued to Hay Commission Agents or Hay

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Retailers under clause 4 or 3 respectively of the licenses issued to xx them fixing the commission which may be charged. Licenses to these dealers are issued in Forms "E" and 'DD' appended to the Bombay Hay Trade Licensing Order, 1944. Condiciona 4 and 3 of the said forms provide that the licensee shall comply with any directions that may be given to him from time to time by the Licensing Authority in regard inter alia to the sale of hay.. As pointed out by the R.L.A. in his opinion No. 5638, dated 31st July 1945 (in regard to condition 4 in Form D) the directions that can be issued under this clause would be regulatory in nature; and it does not appear that any direction as regards the rate of commission can be given under either clause 4 of Form E or clause 3 of Form DD in which forms the licenses are issued to such dealers.

4. The last question is whether a Hay Dealer, Hay Retailer or Hay Commission Agent can sell hay in the Railway grass yards on credit. Sub-clause (2) of clause 8A of the Order provides that any person holding a Hay dealer's, Hay Retailer's or Hay Commission Agent's license shall issue a <u>cash memorandum or other memorandum</u> relating to the sale of hay to every purchaser giving therein full and correct particulars of the quantity and quality of hay sold and the prices at which the sale was made. The words "or other memorandum" used in conjunction with the words "cash memorandum" refer to a sale which is not done on cash payment.

Sd/-F.N.Moos
22-12-45

O.C. Remembrancer of Legal Affairs.

U.R. to F.D.(Supply), No. 9627, dated the 22nd December 1945.

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